

# IDEA: Equitable Services Set-Aside

## What is meant by “Equitable Services Set-Aside”?

Under the Individuals with Disabilities Education Act (IDEA), Local Education Agencies (LEAs) are required to expend a portion of their IDEA Part B allocations on special education instruction and related services to students with disabilities (as determined by an LEA IEP team) who are placed in private schools by their parents. This set-aside requirement is also referred to as IDEA’s “Proportionate Share.”

The IDEA regulations stipulate the calculation that must be used by LEAs to determine the amount of IDEA Part B funding that must be expended on special education services to parentally placed private school students with disabilities. There are two required set-aside amounts for parentally placed private school students – one from the LEA’s flow-through allocation and one from the preschool allocation.

This calculation applies *only* to students who are placed in private schools by their parents. This set-aside is not for students who are placed in private schools by the LEA or other public agencies.

## Private School Location and the LEA Responsible

Under 34 CFR § 300.133(b) and (c), LEAs are responsible for calculating and expending a proportionate share of their flow-through and preschool allocations on parentally placed private school students who are eligible for special education services.

The responsibility for implementing the requirements for parentally placed private school students with disabilities falls upon the LEA where the student’s private school is located.

### EXAMPLE:

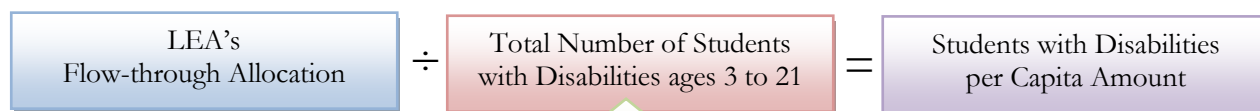
Student A resides in the Sparta School District.

Student A attends a private school located in the Tomah School District.

*Which district is responsible for this parentally placed private school student?*

It is the responsibility of the **Tomah School District** to count Student A in their calculation of the amount that must be set-aside and expended on parentally placed private school students.

## Equitable Services Set-Aside Calculation – Flow-through



This is the total number of students attending *both* public and private schools located in the LEA who were ELIGIBLE for special education (even if they do not receive any services) in the preceding school year. LEAs should use the October 1 count from the **prior year** (the regulations specify that the count take place between October 1 and December 1).

Once the average per student capita amount is established, the LEA's equitable services set-aside for flow-through can be determined. Below is the second part of the calculation.

Students with Disabilities per Capita Amount	X	# of parentally placed private school students ages 3-21* eligible for special education attending private schools in the LEA's jurisdiction	=	Flow-through amount to be expended for parentally placed private school students with disabilities
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### Equitable Services Set-Aside Calculation – Preschool

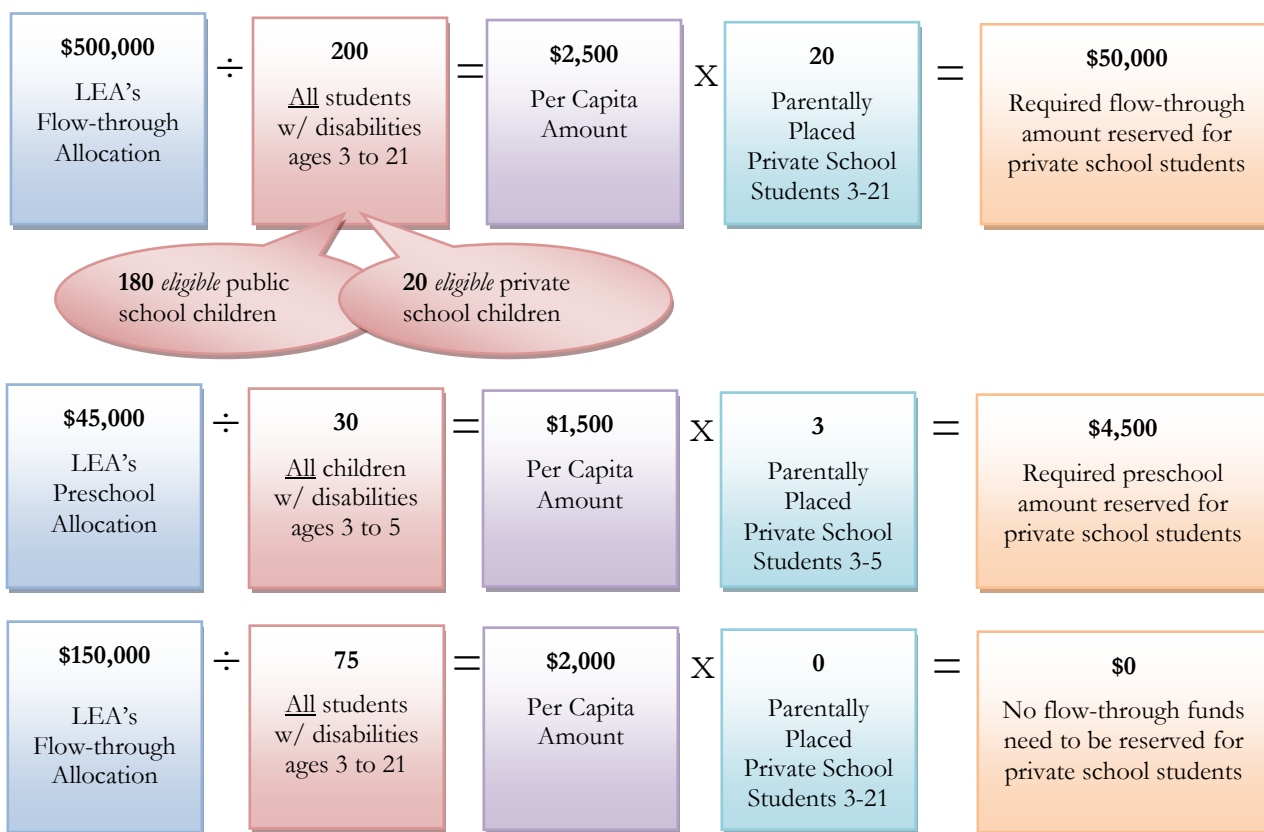
The difference between the preschool equitable services set-aside calculation and the one completed for flow-through is that only eligible children ages 3 through 5 are counted.

Children ages 3 to 5 are included in both the flow-through calculation and again in the preschool calculation. This means that parentally placed private school children ages 3 to 5 generate equitable services set-aside funds from both the flow-through and the preschool grants.

LEA's Preschool Allocation	÷	Total Number of Children with Disabilities ages 3 to 5	=	Children with Disabilities per Capita Amount
Children with Disabilities per Capita Amount	X	# of parentally placed private school students ages 3-5* eligible for special education attending private schools in the LEA's jurisdiction	=	Preschool amount to be expended for parentally placed private school students with disabilities

**NOTE:** Wisconsin Statutes section 115.01(2) defines the elementary grades to include four- and five-year-old kindergarten. Therefore, IDEA requirements for parentally placed private school students with disabilities apply to students enrolled in 4K or 5K programs in private schools. The child's 4K or 5K program must be part of a sequential curriculum that progresses through the grades. The private school institution must meet the definition of a private school in Wisconsin Statutes §118.165. If a child with a disability ages 3 to 5 is enrolled by their parents in a private school 4K or 5K program, the LEA where the private school is located is responsible for child find, including evaluation, and equitable participation. If the school district determines the student will receive services, the district must develop a services plan. If the student is not parentally placed in a 4K or 5K private elementary school program, the child continues to have an individual entitlement to free appropriate public education (FAPE) from their school district of residence.

## Equitable Services Set-Aside Calculation – Flow-through and Preschool Examples



Note: The allocation amount does not include carryover from a prior year. It is the full amount of the LEA's entitlement grant, and does not change even if funds are set-aside for CEIS or Title I Schoolwide activities.

### Allowable Equitable Service Expenditures

Expenditures for special education instruction and related services, including transportation to and from special education services, may be considered when determining whether the LEA has expended the amount that must be set-aside. Other activities, beyond direct services, may also be considered and determined through consultation with the private schools. These activities include:

- Training to private school personnel on special education related topics
- Establishing a resource library (managed by the LEA but accessible to the private schools)

The following costs cannot be used when determining whether or not the requirements of equitable service set-aside has been met:

- Child find activities
- Evaluations
- Administrative costs, such as clerical support or special education director salaries

IDEA funds for equitable services may not be paid directly to a private school. The LEA must always control and administer the funds. However, an LEA may use IDEA funds to pay for the services of an employee of a private school to provide equitable services if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under public supervision and control. Private school teachers providing equitable services do not have to meet Wisconsin licensing requirements.

An LEA may purchase equipment with IDEA funds to be used by a student in a private school – but the equipment always belongs to the LEA. The LEA must monitor that the equipment placed in a private school is used only for special education and can be removed from the private school without remodeling the private school facility. Furthermore, the LEA must remove the equipment from a private school if the equipment is no longer needed by the student or removal is necessary to avoid unauthorized use of the equipment for other than special education purposes.

IDEA funds may never be used for repairs, minor remodeling, or construction of private school facilities.

### **Equitable Services Fiscal Timeline**

If the LEA does not expend the funds set-aside in a fiscal year for equitable services to parentally placed private school students with disabilities, the LEA must obligate the remaining funds for equitable services during a carryover period of one additional year. (34 CFR §300.133(a)(3))

If the LEA does not expend the funds set-aside within the two year time frame, the LEA is permitted to use unexpended equitable services set-aside funds on other costs allowed under IDEA. The LEA must document it met all equitable services requirements (34 CFR §§300.130-300.144). The requirements include implementing a thorough child find process and obtaining written affirmations signed by representatives of participating private schools that timely and meaningful consultation occurred. If there are students with disabilities enrolled in the participating private schools, there must be services plans for students receiving services and those costs are paid using IDEA funds. (*Q and A: Questions and Answers on Serving Children with Disabilities Placed by Their Parents at Private Schools, OSEP Guidance, [Question H-5](#)*)

However, this should be the exception. The intent of IDEA is that LEAs spend the set-aside funds on providing special education and related services to parentally placed private school students. If an LEA must reserve \$10,000 in flow-through funds for equitable services, there is a responsibility to spend those funds on direct services to students. As an example, an LEA has four private schools. There are 10 students with disabilities enrolled in those schools. Of those students, nine students need speech and language services but one student needs orientation and mobility services. If the LEA would expend all \$10,000 on speech and language, there is no requirement to provide orientation and mobility services to the 10<sup>th</sup> student. If the LEA only expends \$7,000 on speech and language, then there are funds available to provide services to the 10<sup>th</sup> student. If the LEA does not expend the set-aside even if there are unmet needs, then the LEA is in non-compliance and will forfeit the remaining set-aside funds.

In the prior example, if all 10 students needed speech and language services and the cost of providing those services ended up being \$7,000, then the LEA would carry over the remaining \$3,000 and add it to the new equitable services set-aside in the following year. The first \$3,000 in expenditures would go against the oldest money first, spending down the required set-aside for the previous year (and the LEA remains in compliance).

### **Parentally Placed Private School Students with Disabilities Attending a Choice School or a Private School with a Special Education Scholarship**

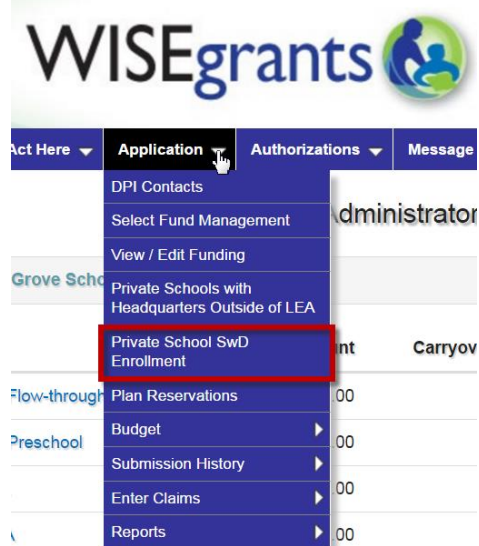
All students with disabilities, placed in private schools by their parents, are included in the equitable services calculation if they were attending the private school on October 1 – regardless of any vouchers or scholarships they may obtain. If there are 10 students with disabilities enrolled in private schools as of October 1, but two are attending the schools with special education scholarships, the LEA still uses the count of 10 to represent the number of students with disabilities attending private schools.

As for the provision of special education services, the LEA is only bound by the required set-aside amount. During the discussion between the LEA and private school officials, the LEA addresses how, where, and by whom special education and related services will be provided as well as how the services will be apportioned if funds are insufficient to serve all students.

## Set-Aside Calculation and Budgeting Equitable Services through WISEgrants

Wisconsin LEAs use WISEgrants to submit IDEA entitlement and discretionary grants. Through the web-based application process, the LEA submits private school student enrollment numbers and the software calculates the correct amount the LEA must reserve for equitable services for any given fiscal year. Within the flow-through and preschool budgets, LEAs can budget specific expenditures earmarked for private school students.

In addition, LEAs are required to submit to DPI the number of parentally placed private school students evaluated, the number of parentally placed private school students determined to be students with disabilities under Part B of IDEA, and the number of students who are provided equitable services (34 CFR §300.132(c)). This data is collected through the equitable services set-aside process within WISEgrants.

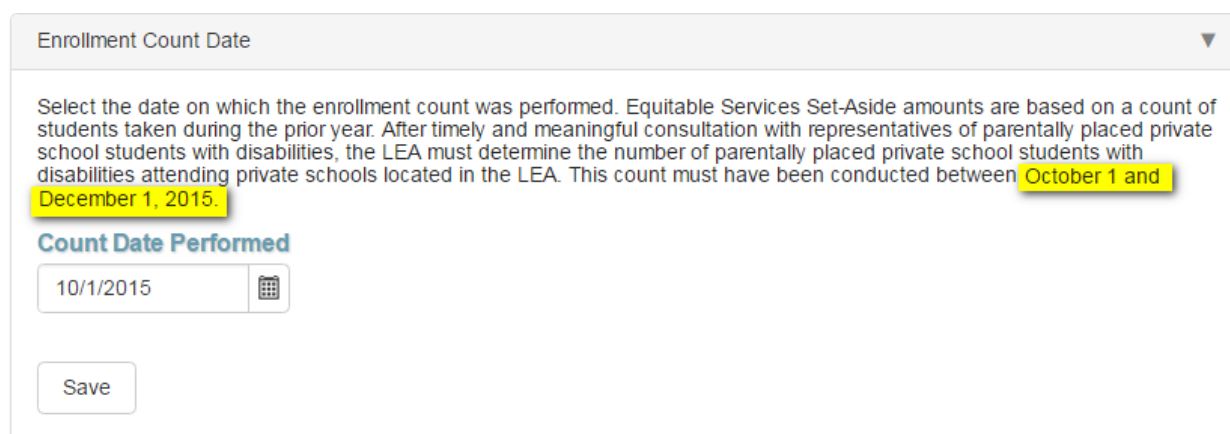


Within the flow-through or preschool application menu, LEAs with private schools will see a menu option of “Private School SwD Enrollment.” If there is no such menu choice, then DPI does not have a private school on record within the LEA’s jurisdiction and the user can continue on to the flow-through or preschool budget.

For all other LEAs, the private school enrollment must be entered before the flow-through or preschool budgets “open” for data entry.

In rare situations, there is a private school located within the LEA’s jurisdiction that does not show up on the LEA’s private school list because the private school’s “headquarters” are located in another LEA’s boundaries. In these situations, the LEA would select “Private Schools with Headquarters Outside of the LEA” menu choice and follow the instructions in that section.

### WISEgrants Application Process – Step 1 – Enter the Enrollment Count Date



The instructions for this section will always inform the user which count date and year to use. In this screenshot, the user is in the 2016-17 fiscal year. The enrollment count must be from between October 1 and December 1 of 2015, which is the year before. The equitable services set-aside is always based on the prior year’s October 1 child count and never the current year.

## WISEgrants Application Process – Step 2 – Enter the Public School Enrollment Numbers

Total Student with Disabilities Enrolled in **PUBLIC Schools** Enrollment Data ▼

AGES 3 to 5 - Enter the total number of children eligible for special education, enrolled in the LEA's public schools, ages 3 to 5 as of October 1, 2015  
**Number of Students with Disabilities ages 3 to 5, enrolled in the public schools as of October 1**

AGES 6 to 21 - Enter the total number of children eligible for special education, enrolled in the LEA's public schools, ages 6 to 21 as of October 1, 2015  
**Number of Students with Disabilities ages 6 to 21, enrolled in the public schools as of October 1**

This is where the public school enrollment numbers, from the prior fiscal year's October 1 child count, are entered. The numbers are split between 3 to 5 year olds and 6 to 21 year olds.

The words “public schools” are highlighted because more than one LEA has had issues with this section and entered private school enrollment counts instead – which created a very confusing set-aside amount. If, when the reservations section is seen and the minimum set-aside appears to be the LEA's entire allocation, double check that public school numbers and not private school enrollment numbers were saved in this section.

## WISEgrants Application Process – Step 3 – Enter the Private School Enrollment Numbers

Private School Code	Private School Name	Number of Students Re/Evaluated between July 1 and June 30	Ages 3 to 5 - October 1 Count of Students with Disabilities Enrolled in the Private School	Ages 6 to 21 - October 1 Count of Students with Disabilities Enrolled in the Private School	Number of Students with Services Plans between July 1 and June 30
1460	Immaculate Hrt of Mary Gr Sch	2	1	3	3
1666	Charis Classical Academy	1	0	1	1
1720	Three Angels Christian School	1	1	2	0
		<b>Total : 4</b>	<b>Total : 2</b>	<b>Total : 6</b>	<b>Total : 4</b>

The grid will display the private schools located within the LEA's jurisdiction. There are four columns in which data must be saved. The LEA is allowed to save all zeroes if there are no students with disabilities enrolled in the private schools.

*Number of Students Re/Evaluated between July 1 and June 30:* Enter all private school student special education evaluations, both initial and re-evaluations, performed between July 1 and June 30 of the prior year. If the current fiscal year is 2016-17, the number would reflect evaluations completed between July 1, 2015 and June 30, 2016.

*Ages 3 to 5 – October 1 Count of Students with Disabilities Enrolled in the Private School:* Enter the number of students, ages 3 to 5, with disabilities parentally placed into private schools as of October 1 of the prior year. If the current fiscal year is 2016-17, the number would reflect the October 1, 2015, child count. This number is used to determine the set-aside amount for preschool and flow-through.



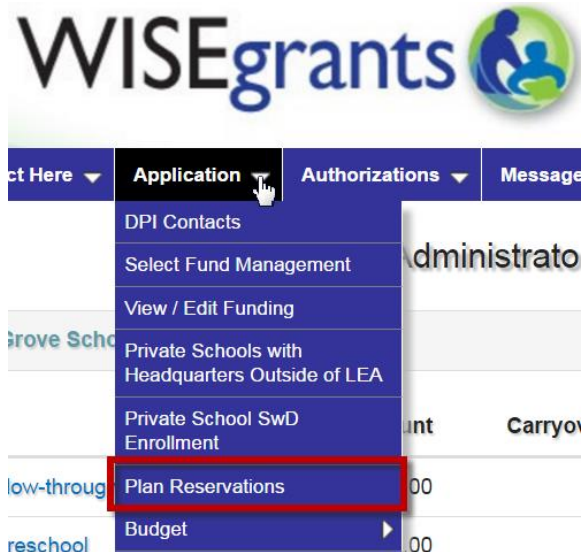
*Ages 6 to 21 – October 1 Count of Students with Disabilities Enrolled in the Private School:* Enter the number of students, ages 6 to 21, with disabilities parentally placed into private schools as of October 1 of the prior year. If the current fiscal year is 2016-17, the number would reflect the October 1, 2015, child count. This number is used to determine the set-aside amount for flow-through.

*Number of Students with Services Plan between July 1 and June 30:* Enter the number of students with disabilities, ages 3 to 21, parentally placed into private schools who received special education services between July 1 and June 30 of the prior year. If the current fiscal year is 2016-17, the number would reflect students with services plans in place between July 1, 2015 and June 30, 2016.

Once the enrollment counts are entered and saved, the LEA can set-aside the required reservation amounts. This step is completed through the Plan Reservations section of the application, which is shown as a menu choice in the graphic to the right.

All LEAs can see the Plan Reservations section as this is also where CEIS and Title I Schoolwide set-aside funds are reserved.

Even if the LEA entered all “zeroes” for private school enrollment numbers, the equitable services portion of the Plan Reservations page must be completed. LEAs who report enrollment numbers of zero must provide an additional assurance (through the software) that the enrollment data is accurate.

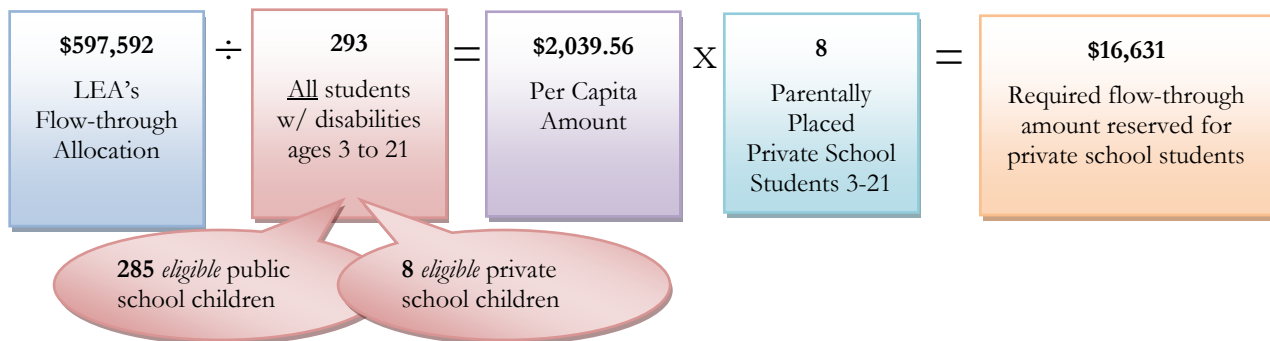


#### WISEgrants Application Process – Step 4 – Enter the Required Reservations Amount

Equitable Services			
Calculation	Minimum	Flow-Through Amount	Preschool Amount
$\$597,592.00 / 293 = \$2,039.56 * 8 =$	\$16,316.51	<input type="text" value="\$16,316.51"/>	
$\$13,578.00 / 44 = \$308.59 * 2 =$	\$617.18		<input type="text" value="\$617.18"/>

The top section of the reservations page is dedicated towards the Equitable Services set-aside. The minimum amount displayed must be entered by the user in the “Flow-Through Amount” and “Preschool Amount” fields and saved.

The equitable services set-aside calculation, as required by IDEA, is displayed for both grants.



The minimum equitable services set-aside amount for each grant must be reserved before the flow-through or preschool budget can be entered.

If the LEA has unspent set-aside from the prior year, it should be included in the reserved amount in this section (the amounts saved can be *greater* than the minimum required).

If the LEA entered zeros for enrollment of parentally placed private school students for all of its private schools, the reservation amount generated is \$0. To ensure this information is accurate, the LEA must provide an assurance on the reservations page, which looks like this:

Equitable Services

Calculation	Minimum	Flow-Through Amount	Preschool Amount
$\$306,837.00 / 204 = \$1,504.10 * 0 =$	\$0.00	<input type="text" value="\$0.00"/>	
$\$9,214.00 / 24 = \$383.92 * 0 =$	\$0.00		<input type="text" value="\$0.00"/>

☒ Zero enrollment has been entered for all private schools in Barron Area School District. Please verify that this is correct by selecting the following check box. If this is not correct please return to the [Private School SwD Enrollment](#) screen to adjust the data accordingly.

Verified by Katarina House on 6/9/2016 at 2:13 PM

**A submission of zeroes for enrollment generates a \$0 setaside. LEAs must provide an additional assurance that there truly are no students with disabilities enrolled in any of the private schools in the LEA's jurisdiction.**

## WISEgrants Application Process – Step 5 – Budget for Required Equitable Services Set-Aside Amount

Once the reservation amounts have been saved, the LEA can enter data into their flow-through and preschool budgets. The LEA will need to budget for expenditures that will spend down their required set-aside amount. This is done by choosing “Private School” from the Program Type field on budget item entries.

Personnel

The 'Program Type' identifies the cost as one that budgets against the equitable services requirement

Program Type: Private School

Position: Speech/Language Pathologist

Position Activity: Standard (Default)

Function: 156600 - Speech/Language

Salary: \$26,000.00

General Ledger Account:

Staff Name or Detailed Description:

Area: No Description Beyond Position

Object: 200 - Employee Benefits

Benefits: \$13,241.00

**Note:** A reservation made under preschool can be budgeted and expended out of the flow-through grant to meet the requirement. If choosing to do this, the LEA must be certain to budget the minimum required preschool amount, as determined on the reservations page, in the flow-through budget.





funds required, no services plans need to be developed. The students enrolled in the private school this year will generate a reservation amount for next year.

*What if there were ten private school students last year and none this year? What are we supposed to do with the funds?*

The LEA is required to complete the calculation and reserve the funds. If the funds are not spent during year 1, then they are carried over into year 2 (remember, in year 2 there would be no new reserved amount because the child count number from the prior year was zero). LEAs should have consulted with the private schools regarding the child find process and if any students with disabilities are determined or enrolled during the year, the LEA should meet with the private school officials again to discuss possible services as there are funds available for equitable services.

*What about the private school students who are identified after October 1?*

An LEA's set-aside is based on the count that was taken between October 1 and December 1. If a parentally placed private school student is determined to be a student with a disability after October 1, the LEA would not adjust their set aside calculation. However, LEAs should have consulted with the private schools regarding the child find process and if any students with disabilities are determined or enrolled during the year, the LEA should meet with the private school officials again to discuss possible services if there are funds available for equitable services that are not earmarked for existing services plans.

*Are Residential Care Centers (RCC) considered private schools?*

Yes – if they meet the definition of a private school in Wisconsin, they are private schools under the equitable participation provision of IDEA. However, equitable services are provided to parentally placed private school students. So although RCCs are private schools, the student has to be placed by a parent to be included in the calculation.

*We bill all of our Speech and Language therapists to Medicaid. Do we have to use IDEA funds to provide services to private school students? We're providing the services, we just want to use local funds.*

Yes. The equitable services set-aside amount under IDEA must be used. To use local funds instead of IDEA funds would be considered supplanting.